



Signed and Filed: October 23, 2018

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re ) Bankruptcy Case  
DANIEL EVERETT OBLENIS, ) No. 18-30530-DM  
Debtor. ) Chapter 13

MEMORANDUM DECISION ON STATE BAR'S MOTION FOR SANCTIONS

On August 21, 2018, creditor The State Bar of California ("State Bar") filed and served the underlying Motion for Sanctions ("Contempt Motion") against debtor Daniel Everett Oblenis ("Debtor"), setting it for hearing on September 18, 2018. No timely opposition was filed,<sup>1</sup> and the court entered the following docket text order on September 17, 2018:

DOCKET TEXT ORDER (no separate order issued:) The court has reviewed the California State Bars Motion for Sanctions Against Debtor Daniel Everett Oblenis and finds it well-taken. Debtor has filed no timely opposition to the motion. Accordingly, the court will grant the motion in part and will shortly issue an order explaining its. The hearing now set for September 18, 2018, at 1:10 p.m.

<sup>1</sup>Debtor filed an untimely response on the date of the hearing (September 18, 2018) and one day after entry of the court's docket text order. On September 17, 2018, the courtroom deputy emailed Debtor a copy of the docket text order and read the docket text order to him by telephone.

1 is taken OFF CALENDAR. (RE: related document(s)28 Motion  
2 for Sanctions filed by Creditor State Bar of California).  
(Montali, Dennis) (Entered: 09/17/2018).

3 For the reasons set forth below, the court will GRANT the  
4 relief sought by the State Bar in the Contempt Motion.

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6 DISCUSSION<sup>2</sup>

7 Debtor has filed at least six bankruptcy cases in this  
8 district since August 2013: the current case; Case No. 17-30225  
9 (Montali, J.); Case No. 15-52214 (Hammond, J.); Case No. 14-43328  
10 (Efremsky, J.) (filed as "O'Blenis Everett Daniel"); Case No. 13-  
11 32111 (Blumenstiel, J.); Case No. 13-31855 (Blumenstiel, J.). In  
12 addition, as alleged by the State Bar (Dkt. 28 at 2:11-13), Debtor  
13 filed multiple cases in the Western District of Washington  
14 resulting in an imposition of a two-year bar in that district.

15 In the last case filed in this district (Case 17-30225),  
16 chapter 13 trustee David Burchard ("Trustee") moved for dismissal  
17 of the case with a two-year bar on future filings and for sanctions  
18 in the event Debtor violated the two-year bar. See Dkt. 21 in Case  
19 No. 17-30225. On July 28, 2017, the court entered an order  
20 granting the relief sought by Trustee and stating: "Mr. Everett is  
21 barred from filing any bankruptcy cases in any bankruptcy court of  
22 the United States for two years from the date of this order and he  
23 is cautioned that a violation of this order could result in  
24 sanctions of \$5,000.00 as requested by the Trustee." See Dkt. No.  
25 41 at 2 in Case No. 17-30225 (the "Bar Order"). Debtor did not  
26 appeal that order and it is final.

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<sup>2</sup>The following discussion constitutes the court's findings of  
fact and conclusions of law. Fed. R. Bankr. P. 7052(a).

1       Notwithstanding the Bar Order, Debtor filed the current case  
2 on May 11, 2018. Notably, Debtor did not provide a Social Security  
3 Number in his "Statement About Your Social Security Numbers",  
4 instead stating "Do not have with me." See Dkt. 5. He similarly  
5 stated in response to Question 3 of his voluntary petition that he  
6 would need to file an update to his petition to add his social  
7 security number as he did "not have [it] on me." See Dkt. 1 at p.  
8 1. In the five months since filing those documents, the social  
9 security number has not been provided. Furthermore, instead of  
10 listing "Everett" as his last name, Debtor used "O'Blenis." He  
11 acknowledged filing cases in this district, but did not provide the  
12 case numbers. Because Debtor did not provide his social security  
13 numbers or use the last name "Everett," his prior cases did not  
14 appear automatically on the docket.

15       In his late-filed opposition to the Contempt Motion, Debtor  
16 argues that this court lacks jurisdiction to hear the motion  
17 because the case was closed. The case was not closed when the  
18 court ruled on the motion; to the contrary, the case was reopened  
19 by an order of the court signed on August 25, 2018 and entered on  
20 the docket on August 27, 2018 (Dkt. 31). Debtor also cites to  
21 inapplicable local rules of the U.S. District Court regarding  
22 service, removal and related proceedings. The relevant local rule  
23 is B.L.R. 9014-1, with which the State Bar complied. Finally,  
24 Debtor contends that the State Bar did not comply with Rule  
25 7004(b)(9), as service occurred when he was no longer a debtor.  
26 Even if Rule 7004(b)(9) did not apply to Debtor, he is an  
27 individual, and service by the State Bar complied with the service  
28 requirements of the rule governing individuals. Fed. R. Civ. P.  
7004(b)(1).

1 In light of the foregoing, the court finds and determines that  
2 Debtor has violated the terms of the Bar Order by filing the  
3 voluntary petition commencing this case. Given Debtor's failure to  
4 disclose pertinent information in his petition or in an amended  
5 petition that would automatically link this case to his prior cases  
6 (social security number, prior case numbers) and his use of a  
7 different last name, the court finds that Debtor knowingly violated  
8 the terms of the Bar Order with an intent to avoid the consequences  
9 of such a violation. Consequently, the court will grant the  
10 Contempt Motion and impose sanctions against Debtor in the amount  
11 of \$5,000.00, payable to this court within thirty days of entry of  
12 the order to be submitted. It will further award the State Bar  
13 \$3,500 in attorneys fees for preparing and filing the Contempt  
14 Motion.<sup>3</sup>

15 CONCLUSION

16 Counsel for the State Bar should upload an order granting the  
17 relief sought in the Contempt Motion, and file a separate proof of  
18 service indicating that it has served Debtor with the proposed form  
19 of order in accordance with B.L.R. 9021-1(c).

20 **\*\*END OF MEMORANDUM DECISION\*\***

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<sup>3</sup>The State Bar states that Debtor's repeated filings have precluded it from recommending his suspension due to unpaid licensing fees, but did not request a comfort order permitting it to pursue its remedies for non-payment of dues notwithstanding any subsequent filing by Debtor. That said, depending on the timing of the next (if any) bankruptcy petition by Debtor, the stay may not apply as a matter of law. See 11 U.S.C. § 362(c)(3) and (4).

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Court Service List

Daniel Everett  
15 Boardman PL #2  
San Francisco, CA 94103